

110TH CONGRESS  
2D SESSION

# S. 2819

To preserve access to Medicaid and the State Children’s Health Insurance Program during an economic downturn, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

APRIL 3, 2008

Mr. ROCKEFELLER (for himself, Ms. SNOWE, and Mr. KENNEDY) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To preserve access to Medicaid and the State Children’s Health Insurance Program during an economic downturn, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Economic Recovery  
5 in Health Care Act of 2008”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

8 (1) State and local governments are an integral  
9 part of our national economic engine. They provide

1 health care and a wealth of social services to millions  
2 of Americans, particularly when the economy is  
3 weak.

4 (2) During the last economic downturn, the  
5 number of uninsured Americans would have been  
6 millions more if Medicaid and the State Children's  
7 Health Insurance Program (CHIP) had not re-  
8 sponded to the twin challenges of an economic down-  
9 turn and a sharp drop-off in private health insur-  
10 ance coverage.

11 (3) In the last year, our unemployment rate has  
12 increased to 5.0 percent with nearly 900,000 more  
13 Americans without jobs. Because the majority of  
14 Americans get their health insurance through their  
15 jobs, the loss of a job often results in a simultaneous  
16 loss of health insurance coverage.

17 (4) Medicaid fills the gap for working families  
18 when they lose access to private coverage. For every  
19 1 percent increase in the unemployment rate, Med-  
20 icaid enrollment increases by 2,000,000 to  
21 3,000,000 people.

22 (5) States experience enormous budget pres-  
23 sures when the economy slows. By law, 49 States  
24 are required to balance their budgets and, in times

1 of economic downturn, this task becomes signifi-  
2 cantly more difficult.

3 (6) According to the National Governors Asso-  
4 ciation, 18 States already face budget shortfalls to-  
5 taling \$14,000,000,000 in 2008, and 21 States  
6 project shortfalls totaling more than  
7 \$32,000,000,000 in 2009. If the current downturn  
8 follows the path of most recessions, between 35 and  
9 40 States will face severe budget shortfalls in 2009.

10 (7) A critical factor in helping States sustain  
11 Medicaid enrollment during the last economic down-  
12 turn was the \$20,000,000,000 in State fiscal relief  
13 that Congress enacted in 2003.

14 (8) Not only should Congress enact a similar  
15 State fiscal relief provision in 2008, but Congress  
16 should also delay the implementation of administra-  
17 tive regulations that would reduce Federal Medicaid  
18 matching payments at a time when States need  
19 greater Federal resources.

20 (9) There is no question that health care is eco-  
21 nomic stimulus.

22 (10) Keeping Medicaid and CHIP whole shores  
23 up the safety net for vulnerable working families.  
24 People who are able to get the health services they

1 need are more likely to be able to continue working  
2 and contribute to the economy as it recovers.

3 (11) Leading economists have found that tar-  
4 geted State aid would generate increased economic  
5 activity of \$1.36 for each dollar of cost. The increase  
6 in Federal dollars to States generates business activ-  
7 ity, jobs, and wages that States would not otherwise  
8 see.

9 **SEC. 3. PRESERVING ACCESS TO MEDICAID AND CHIP DUR-**  
10 **ING AN ECONOMIC DOWNTURN.**

11 (a) PROHIBITION.—Effective on the date of enact-  
12 ment of this Act, notwithstanding any other provision of  
13 law, the Secretary of Health and Human Services shall  
14 not finalize, implement, enforce, or otherwise take any ac-  
15 tion to give effect to the following administrative actions  
16 (or to any administrative actions relating to the same sub-  
17 ject matters that are similar to the following administra-  
18 tive actions or that reflect the same or similar policies set  
19 forth in the following administrative actions) prior to April  
20 1, 2009:

21 (1) The proposed and final rule entitled “Med-  
22 icaid Program; Health-Care Related Taxes”, pub-  
23 lished, respectively, on March 23, 2007, on pages  
24 13726 through 13734 of volume 72, Federal Reg-  
25 ister, and on February 22, 2008, on pages 9685

1 through 9699 of volume 73, Federal Register, with  
2 the exception of the proposed amendments to sec-  
3 tions 433.56(a)(8) and 433.68(f)(3)(i) of title 42,  
4 Code of Federal Relations.

5 (2) The proposed rule entitled “Medicaid Pro-  
6 gram; Graduate Medical Education”, published on  
7 May 23, 2007, on pages 28930 through 28936 of  
8 volume 72, Federal Register.

9 (3) The State Health Official Letter 07–001,  
10 dated August 17, 2007, issued by the Director of  
11 the Center for Medicaid and State Operations in the  
12 Centers for Medicare & Medicaid Services regarding  
13 certain requirements under the State Children’s  
14 Health Insurance Program (CHIP) relating to the  
15 prevention of the substitution of health benefits cov-  
16 erage for children (commonly referred to as “crowd-  
17 out”) and the enforcement of medical support or-  
18 ders. Any change made on or after August 17, 2007,  
19 to a Medicaid or CHIP State plan or waiver to im-  
20 plement, conform to, or otherwise adhere to the re-  
21 quirements or policies in such letter shall not apply  
22 prior to April 1, 2009.

23 (4) The proposed rule entitled “Medicaid Pro-  
24 gram; Clarification of Outpatient Clinic and Hos-  
25 pital Facility Services definition and Upper Payment

1 Limit”, published on September 28, 2007, on pages  
2 55158 through 55166 of volume 72, Federal Reg-  
3 ister.

4 (5) The interim final rule entitled “Medicaid  
5 Program; Optional State Plan Case Management  
6 Services”, published on December 4, 2007, on pages  
7 68077 through 68093 of volume 72, Federal Reg-  
8 ister.

9 (6) The proposed rule entitled “Revisions to  
10 Procedures for the Departmental Appeals Board and  
11 Other Departmental Hearings”, published on De-  
12 cember 28, 2007, on pages 73708 through 73720 of  
13 volume 72, Federal Register.

14 (b) EXTENSION OF PRIOR MORATORIA.—

15 (1) MORATORIUM RELATING TO THE COST  
16 LIMIT FOR PROVIDERS OPERATED BY UNITS OF GOV-  
17 ERNMENT AND PROVISIONS TO ENSURE THE INTEG-  
18 RITY OF FEDERAL-STATE FINANCIAL PARTNER-  
19 SHIP.—Section 7002(a)(1) of the U.S. Troop Readi-  
20 ness, Veterans’ Care, Katrina Recovery, and Iraq  
21 Accountability Appropriations Act of 2007 (Public  
22 Law 110–28) is amended by striking “the date that  
23 is 1 year after the date of enactment of this Act”  
24 and inserting “April 1, 2009”.

1           (2) MORATORIA RELATING TO REHABILITATION  
2 SERVICES, SCHOOL-BASED ADMINISTRATION AND  
3 SCHOOL-BASED TRANSPORTATION.—Section 206 of  
4 the Medicare, Medicaid, and SCHIP Extension Act  
5 of 2007 (Public Law 110–173) is amended by strik-  
6 ing “June 30, 2008” and inserting “April 1, 2009”.

7 **SEC. 4. TEMPORARY, TARGETED STATE FISCAL RELIEF.**

8 (a) DEFINITIONS.—In this section:

9           (1) ROUND ONE QUALIFYING STATE.—

10           (A) IN GENERAL.—Subject to subpara-  
11 graph (B), the term “Round One Qualifying  
12 State” means with respect to a State that is 1  
13 of the 50 States or the District of Columbia, a  
14 State that has 1 of 28 highest averages of the  
15 State rankings for each of the following 3 quali-  
16 fying criteria, based on the most recent data  
17 available as of April 1, 2008:

18           (i) REDUCTION IN EMPLOYMENT.—

19           The year-to-year reduction in total employ-  
20 ment, based on the average total employ-  
21 ment for the State or District in the 3  
22 most recent months compared to the aver-  
23 age total employment for the State or Dis-  
24 trict in the same months a year earlier, as  
25 determined based on the most recent

1 monthly publications of the Current Em-  
2 ployer Statistics Survey of the Bureau of  
3 Labor Statistics.

4 (ii) INCREASE IN FOOD STAMPS PAR-  
5 TICIPATION.—The year-to-year increase in  
6 food stamps participation, based on aver-  
7 age monthly participation for the State or  
8 District in the 3 most recent months com-  
9 pared to the average monthly participation  
10 for the State or District in the same  
11 months a year earlier, as determined based  
12 on the most recent monthly publications of  
13 Food and Nutrition Service Data of the  
14 Department of Agriculture.

15 (iii) INCREASE IN THE FORECLOSURE  
16 RATE.—The year-to-year increase in the  
17 foreclosure rate for the State or District,  
18 based on the foreclosure rate for the State  
19 or District for the most recent quarter  
20 compared to the same quarter a year ear-  
21 lier, as determined by the Mortgage Bank-  
22 ers Association’s National Delinquency  
23 Survey, as published in most recent report  
24 entitled, “Recent Foreclosure Trends Re-  
25 port for all States”.

1 (B) COMMONWEALTHS AND TERRITORIES  
 2 INCLUDED.—Such term includes a common-  
 3 wealth or territory specified in paragraph (4).

4 (2) ROUND TWO QUALIFYING STATE.—The  
 5 term “Round Two Qualifying State” means a State  
 6 that is 1 of the 50 States or the District of Colum-  
 7 bia and that—

8 (A) has 1 of 38 highest averages of the  
 9 State rankings for the 3 qualifying criteria  
 10 identified in clauses (i), (ii), and (iii) of para-  
 11 graph (1)(A), based on the most recent data  
 12 available as of October 1, 2008; and

13 (B) is not a Round One Qualifying State.

14 (3) FMAP.—The term “FMAP” means the  
 15 Federal medical assistance percentage, as defined in  
 16 section 1905(b) of the Social Security Act (42  
 17 U.S.C. 1396d(b)).

18 (4) STATE.—The term “State” means the 50  
 19 States, the District of Columbia, the Commonwealth  
 20 of Puerto Rico, the United States Virgin Islands,  
 21 Guam, the Commonwealth of the Northern Mariana  
 22 Islands, and American Samoa.

23 (b) ASSISTANCE FOR ROUND ONE QUALIFYING  
 24 STATES.—

1           (1) TEMPORARY INCREASE OF MEDICAID  
2 FMAP.—

3           (A) PERMITTING MAINTENANCE OF FISCAL  
4 YEAR 2007 FMAP FOR LAST 2 CALENDAR QUAR-  
5 TERS OF FISCAL YEAR 2008.—Subject to sub-  
6 paragraphs (E), (F), (G), and (H), if the  
7 FMAP determined without regard to this para-  
8 graph for a Round One Qualifying State for fis-  
9 cal year 2008 is less than the FMAP as so de-  
10 termined for fiscal year 2007, the FMAP for  
11 the State for fiscal year 2007 shall be sub-  
12 stituted for the State’s FMAP for the third and  
13 fourth calendar quarters of fiscal year 2008, be-  
14 fore the application of this paragraph.

15           (B) PERMITTING MAINTENANCE OF FISCAL  
16 YEAR 2008 FMAP FOR FIRST 3 QUARTERS OF  
17 FISCAL YEAR 2009.—Subject to subparagraphs  
18 (E), (F), (G), and (H), if the FMAP deter-  
19 mined without regard to this paragraph for a  
20 Round One Qualifying State for fiscal year  
21 2009 is less than the FMAP as so determined  
22 for fiscal year 2008, the FMAP for the State  
23 for fiscal year 2008 shall be substituted for the  
24 State’s FMAP for the first, second, and third

1 calendar quarters of fiscal year 2009, before the  
2 application of this paragraph.

3 (C) GENERAL 1.667 PERCENTAGE POINTS  
4 INCREASE FOR LAST 2 CALENDAR QUARTERS OF  
5 FISCAL YEAR 2008 AND FIRST 3 CALENDAR  
6 QUARTERS OF FISCAL YEAR 2009.—Subject to  
7 subparagraphs (E), (F), (G), and (H), for each  
8 Round One Qualifying State for the third and  
9 fourth calendar quarters of fiscal year 2008  
10 and for the first, second, and third calendar  
11 quarters of fiscal year 2009, the FMAP (taking  
12 into account the application of subparagraphs  
13 (A) and (B)) shall be increased by 1.667 per-  
14 centage points.

15 (D) INCREASE IN CAP ON MEDICAID PAY-  
16 MENTS TO TERRITORIES.—Subject to subpara-  
17 graphs (E), (F), (G), and (H), with respect to  
18 the third and fourth calendar quarters of fiscal  
19 year 2008 and the first, second, and third cal-  
20 endar quarters of fiscal year 2009, the amounts  
21 otherwise determined for the Commonwealth of  
22 Puerto Rico, the United States Virgin Islands,  
23 Guam, the Commonwealth of the Northern  
24 Mariana Islands, and American Samoa under  
25 subsections (f) and (g) of section 1108 of the

1 Social Security Act (42 U.S.C. 1308) shall each  
2 be increased by an amount equal to 3.334 per-  
3 cent of such amounts.

4 (E) SCOPE OF APPLICATION.—The in-  
5 creases in the FMAP for a Round One Quali-  
6 fying State and the increases in the cap  
7 amounts under subparagraph (D) under this  
8 paragraph shall apply only for purposes of title  
9 XIX of the Social Security Act and shall not  
10 apply with respect to—

11 (i) disproportionate share hospital  
12 payments described in section 1923 of such  
13 Act (42 U.S.C. 1396r-4);

14 (ii) payments under title IV or XXI of  
15 such Act (42 U.S.C. 601 et seq. and  
16 1397aa et seq.); or

17 (iii) any payments under XIX of such  
18 Act that are based on the enhanced FMAP  
19 described in section 2105(b) of such Act  
20 (42 U.S.C. 1397ee(b)).

21 (F) STATE ELIGIBILITY.—

22 (i) IN GENERAL.—Subject to clause  
23 (ii), a Round One Qualifying State is eligi-  
24 ble for an increase in its FMAP under sub-  
25 paragraph (C) or an increase in a cap

1 amount under subparagraph (D) only if  
2 the eligibility under its State plan under  
3 title XIX of the Social Security Act (in-  
4 cluding any waiver under such title or  
5 under section 1115 of such Act (42 U.S.C.  
6 1315)) is no more restrictive than the eli-  
7 gibility under such plan (or waiver) as in  
8 effect on December 31, 2007.

9 (ii) STATE REINSTATEMENT OF ELIGI-  
10 BILITY PERMITTED.—A Round One Quali-  
11 fying State that has restricted eligibility  
12 under its State plan under title XIX of the  
13 Social Security Act (including any waiver  
14 under such title or under section 1115 of  
15 such Act (42 U.S.C. 1315)) after Decem-  
16 ber 31, 2007, is eligible for an increase in  
17 its FMAP under subparagraph (C) or an  
18 increase in a cap amount under subpara-  
19 graph (D) in the first calendar quarter  
20 (and subsequent calendar quarters) in  
21 which the State has reinstated eligibility  
22 that is no more restrictive than the eli-  
23 gibility under such plan (or waiver) as in ef-  
24 fect on December 31, 2007.

1 (iii) RULE OF CONSTRUCTION.—Noth-  
2 ing in clause (i) or (ii) shall be construed  
3 as affecting a Round One Qualifying  
4 State’s flexibility with respect to benefits  
5 offered under the State medicaid program  
6 under title XIX of the Social Security Act  
7 (42 U.S.C. 1396 et seq.) (including any  
8 waiver under such title or under section  
9 1115 of such Act (42 U.S.C. 1315)).

10 (G) REQUIREMENT FOR CERTAIN  
11 STATES.—In the case of a Round One Quali-  
12 fying State that requires political subdivisions  
13 within the State to contribute toward the non-  
14 Federal share of expenditures under the State  
15 Medicaid plan required under section  
16 1902(a)(2) of the Social Security Act (42  
17 U.S.C. 1396a(a)(2)), the Round One Qualifying  
18 State shall not require that such political sub-  
19 divisions pay a greater percentage of the non-  
20 Federal share of such expenditures for the third  
21 and fourth calendar quarters of fiscal year  
22 2008 and the first, second, and third calendar  
23 quarters of fiscal year 2009, than the percent-  
24 age that would have been required by the State  
25 under such plan on December 31, 2007.

1 (H) REQUIREMENTS.—A Round One  
2 Qualifying State—

3 (i) may not use the additional Federal  
4 funds paid to the State as a result of this  
5 paragraph for purposes of increasing any  
6 reserve or rainy day fund maintained by  
7 the State; and

8 (ii) shall expend the additional Fed-  
9 eral funds paid to the State as a result of  
10 this paragraph within 1 year of the date  
11 on which the State receives such funds.

12 (2) TARGETED GRANTS TO ROUND ONE QUALI-  
13 FYING STATES.—

14 (A) APPROPRIATION.—There is authorized  
15 to be appropriated and is appropriated for mak-  
16 ing payments to Round One Qualifying States  
17 under this paragraph—

18 (i) \$2,500,000,000 for fiscal year  
19 2008; and

20 (ii) \$2,500,000,000 for fiscal year  
21 2009.

22 (B) PAYMENTS.—

23 (i) FISCAL YEAR 2008.—From the  
24 amount appropriated under subparagraph  
25 (A)(i) for fiscal year 2008, the Secretary of

1 the Treasury shall, not later than the later  
2 of the date that is 45 days after the date  
3 of enactment of this Act or the date that  
4 a Round One Qualifying State provides the  
5 certification required by subparagraph (E)  
6 for fiscal year 2008, pay each such State  
7 the amount determined for the State for  
8 fiscal year 2008 under subparagraph (C).

9 (ii) FISCAL YEAR 2009.—From the  
10 amount appropriated under subparagraph  
11 (A)(ii) for fiscal year 2009, the Secretary  
12 of the Treasury shall, not later than the  
13 later of October 1, 2008, or the date that  
14 a Round One Qualifying State provides the  
15 certification required by subparagraph (E)  
16 for fiscal year 2009, pay each such State  
17 the amount determined for the State for  
18 fiscal year 2009 under subparagraph (C).

19 (C) PAYMENTS BASED ON POPULATION.—

20 (i) IN GENERAL.—Subject to clause  
21 (ii), the amount appropriated under sub-  
22 paragraph (A) for each of fiscal years  
23 2008 and 2009 shall be used to pay each  
24 Round One Qualifying State an amount  
25 equal to the relative population proportion

1 amount described in clause (iii) for such  
2 fiscal year.

3 (ii) MINIMUM PAYMENT.—

4 (I) IN GENERAL.—No Round  
5 One Qualifying State shall receive a  
6 payment under this paragraph for a  
7 fiscal year that is less than—

8 (aa) in the case of a Round  
9 One Qualifying State that is 1 of  
10 the 50 States or the District of  
11 Columbia,  $\frac{1}{2}$  of 1 percent of the  
12 amount appropriated for such fis-  
13 cal year under subsection (a);  
14 and

15 (bb) in the case of the Com-  
16 monwealth of Puerto Rico, the  
17 United States Virgin Islands,  
18 Guam, the Commonwealth of the  
19 Northern Mariana Islands, or  
20 American Samoa,  $\frac{1}{10}$  of 1 per-  
21 cent of the amount appropriated  
22 for such fiscal year under sub-  
23 section (a).

24 (II) PRO RATA ADJUSTMENTS.—

25 The Secretary of the Treasury shall

1           adjust on a pro rata basis the amount  
 2           of the payments to Round One Quali-  
 3           fying States determined under this  
 4           paragraph without regard to this sub-  
 5           clause to the extent necessary to com-  
 6           ply with the requirements of subclause  
 7           (I).

8           (iii) RELATIVE POPULATION PROPOR-  
 9           TION AMOUNT.—The relative population  
 10          proportion amount described in this clause  
 11          is the product of—

12                   (I) the amount described in sub-  
 13                   paragraph (A) for a fiscal year; and

14                   (II) the relative State population  
 15                   proportion (as defined in clause (iv)).

16           (iv) RELATIVE STATE POPULATION  
 17           PROPORTION DEFINED.—For purposes of  
 18           clause (iii)(II), the term “relative State  
 19           population proportion” means, with respect  
 20           to a Round One Qualifying State, the  
 21           amount equal to the quotient of—

22                   (I) the population of the State  
 23                   (as reported in the most recent decen-  
 24                   nial census); and

1 (II) the total population of all  
2 such States (as reported in the most  
3 recent decennial census).

4 (D) USE OF PAYMENT.—

5 (i) IN GENERAL.—Subject to clause  
6 (ii), a Round One Qualifying State shall  
7 use the funds provided under a payment  
8 made under this paragraph for a fiscal  
9 year to—

10 (I) provide essential government  
11 services;

12 (II) cover the costs to the State  
13 of complying with any Federal inter-  
14 governmental mandate (as defined in  
15 section 421(5) of the Congressional  
16 Budget Act of 1974) to the extent  
17 that the mandate applies to the State,  
18 and the Federal Government has not  
19 provided funds to cover the costs; or

20 (III) compensate for a decline in  
21 Federal funding to the State.

22 (ii) REQUIREMENTS.—A Round One  
23 Qualifying State—

24 (I) may only use funds provided  
25 under a payment made under this

1 paragraph for types of expenditures  
 2 permitted under the most recently ap-  
 3 proved budget for the State;

4 (II) may not use the additional  
 5 Federal funds paid to the State as a  
 6 result of this paragraph for purposes  
 7 of increasing any reserve or rainy day  
 8 fund maintained by the State; and

9 (III) shall expend the additional  
 10 Federal funds paid to the State as a  
 11 result of this paragraph within 1 year  
 12 of the date on which the State re-  
 13 ceives such funds.

14 (E) CERTIFICATION.—In order to receive a  
 15 payment under this section for a fiscal year, a  
 16 Round One Qualifying State shall provide the  
 17 Secretary of the Treasury with a certification  
 18 that the State’s proposed uses of the funds are  
 19 consistent with subparagraph (D).

20 (c) ASSISTANCE FOR ROUND TWO QUALIFYING  
 21 STATES.—

22 (1) TEMPORARY INCREASE OF MEDICAID  
 23 FMAP.—

24 (A) PERMITTING MAINTENANCE OF FISCAL  
 25 YEAR 2008 FMAP FOR FIRST 3 QUARTERS OF

1 FISCAL YEAR 2009.—Subject to subparagraph  
2 (C), if the FMAP determined without regard to  
3 this paragraph for a Round Two Qualifying  
4 State for fiscal year 2009 is less than the  
5 FMAP as so determined for fiscal year 2008,  
6 the FMAP for the State for fiscal year 2008  
7 shall be substituted for the State’s FMAP for  
8 the first, second, and third calendar quarters of  
9 fiscal year 2009, before the application of this  
10 paragraph.

11 (B) GENERAL 1.667 PERCENTAGE POINTS  
12 INCREASE FOR FIRST 3 CALENDAR QUARTERS  
13 OF FISCAL YEAR 2009.—Subject to subpara-  
14 graph (C), for each Round Two Qualifying  
15 State for the first, second, and third calendar  
16 quarters of fiscal year 2009, the FMAP (taking  
17 into account the application of subparagraph  
18 (A)) shall be increased by 1.667 percentage  
19 points.

20 (C) APPLICATION OF REQUIREMENTS FOR  
21 ROUND ONE QUALIFYING STATES.—Subpara-  
22 graphs (E), (F), (G), and (H) of subsection  
23 (b)(1) apply to a Round Two Qualifying State  
24 receiving an increase in its FMAP under sub-  
25 paragraph (B) in the same manner as such sub-

1 paragraphs apply to a Round One Qualifying  
2 State under such subsection.

3 (2) TARGETED GRANTS TO ROUND TWO QUALI-  
4 FYING STATES.—

5 (A) APPROPRIATION.—There is authorized  
6 to be appropriated and is appropriated for mak-  
7 ing payments to Round Two Qualifying States  
8 under this paragraph, \$1,000,000,000 for fiscal  
9 year 2009.

10 (B) PAYMENTS.—From the amount appro-  
11 priated under subparagraph (A) for fiscal year  
12 2009, the Secretary of the Treasury shall, not  
13 later than the later of October 1, 2008, or the  
14 date that a Round Two Qualifying State pro-  
15 vides the certification required by subparagraph  
16 (E) of subsection (b)(2) for fiscal year 2009,  
17 pay each such State the amount determined for  
18 the State for fiscal year 2009 under subpara-  
19 graph (C).

20 (C) PAYMENTS BASED ON POPULATION.—

21 (i) IN GENERAL.—Subject to clause  
22 (ii), the amount appropriated under sub-  
23 paragraph (A) for fiscal year 2009 shall be  
24 used to pay each Round Two Qualifying  
25 State an amount equal to the relative pop-

1                   ulation proportion amount described in  
2                   clause (iii) for such fiscal year.

3                   (ii) MINIMUM PAYMENT.—

4                   (I) IN GENERAL.—No Round  
5                   Two Qualifying State shall receive a  
6                   payment under this paragraph for fis-  
7                   cal year 2009 that is less than  $\frac{1}{2}$  of  
8                   1 percent of the amount appropriated  
9                   for such fiscal year under subsection  
10                  (a).

11                  (II) PRO RATA ADJUSTMENTS.—

12                 The Secretary of the Treasury shall  
13                 adjust on a pro rata basis the amount  
14                 of the payments to Round Two Quali-  
15                 fying States determined under this  
16                 paragraph without regard to this sub-  
17                 clause to the extent necessary to com-  
18                 ply with the requirements of subclause  
19                 (I).

20                 (iii) RELATIVE POPULATION PROPOR-  
21                 TION AMOUNT.—The relative population  
22                 proportion amount described in this clause  
23                 is the product of—

24                 (I) the amount described in sub-  
25                 paragraph (A) for a fiscal year; and

1 (II) the relative State population  
2 proportion (as defined in clause (iv)).

3 (iv) RELATIVE STATE POPULATION  
4 PROPORTION DEFINED.—For purposes of  
5 clause (iii)(II), the term “relative State  
6 population proportion” means, with respect  
7 to a Round Two Qualifying State, the  
8 amount equal to the quotient of—

9 (I) the population of the State  
10 (as reported in the most recent decen-  
11 nial census); and

12 (II) the total population of all  
13 such States (as reported in the most  
14 recent decennial census).

15 (D) APPLICATION OF REQUIREMENTS FOR  
16 ROUND ONE QUALIFYING STATES.—Subpara-  
17 graphs (D) and (E) of subsection (b)(2) apply  
18 to a Round Two Qualifying State receiving a  
19 payment under subparagraph (B) in the same  
20 manner as such subparagraphs apply to a  
21 Round One Qualifying State under such sub-  
22 section.

23 (d) REPEAL.—Effective as of October 1, 2009, this  
24 section is repealed.

○